

nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCFA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination With Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

#### X. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 5, 2011.

**Steven Bradbury**,

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR part 180 is amended as follows:

#### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1301 to subpart D to read as follows:

**§ 180.1301 *Escherichia coli* O157:H7 specific bacteriophages; temporary exemption from the requirement of a tolerance.**

A temporary exemption from the requirement of a tolerance is established for residues of lytic bacteriophages that are specific to *Escherichia coli* O157:H7, sequence negative for shiga toxins I and II, and grown on atoxigenic host bacteria when used/applied on food contact surfaces in food processing plants in accordance with the terms of Experimental Use Permit (EUP) No. 74234-EUP-2. This temporary exemption expires on April 1, 2013.

[FR Doc. 2011-8712 Filed 4-12-11; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 300

[EPA-HQ-SFUND-1983-0002; FRL-9291-6]

#### National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List; Deletion of the Spiegelberg Landfill Superfund Site

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) Region 5 is publishing a direct final Notice of Deletion of the Spiegelberg Landfill Superfund Site (Site), located in Green Oak Township, Michigan from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Michigan through the Michigan Department of Environmental Quality (MDEQ), because EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion is effective June 13, 2011 unless EPA

receives adverse comments by May 13, 2011. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1983-0002, by one of the following methods:

- <http://www.regulations.gov>: Follow on-line instructions for submitting comments.

- *E-mail:* Howard Caine, Remedial Project Manager, at [caine.howard@epa.gov](mailto:caine.howard@epa.gov) or Cheryl Allen, Community Involvement Coordinator, at [allen.cheryl@epa.gov](mailto:allen.cheryl@epa.gov).

- *Fax:* Gladys Beard, Deletion Process Manager, at (312) 697-2077.

- *Mail:* Howard Caine, Remedial Project Manager, U.S. Environmental Protection Agency (SR-6J), 77 W. Jackson Boulevard, Chicago, IL 60604, (312) 353-9685; or Cheryl Allen, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI-7J), 77 W. Jackson Boulevard, Chicago, IL 60604, (312) 353-6196 or (800) 621-8431.

- *Hand delivery:* Cheryl Allen, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI-7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID no. EPA-HQ-SFUND-1983-0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment

that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at:

- U.S. Environmental Protection Agency-Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604. Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.
- Hamburg Township Library, 10411 Merrill Road, P.O. Box 247, Hamburg, MI 48139, Phone: (810) 231-1771. Hours: Monday through Thursday, 9 a.m. to 8 p.m.; Friday 12 p.m. to 6 p.m. and Saturday 9 a.m. to 5 p.m.

**FOR FURTHER INFORMATION CONTACT:** Howard Caine, Remedial Project Manager, U.S. Environmental Protection Agency (SR-6J), 77 W. Jackson Boulevard, Chicago, IL 60604, (312) 353-9685, [caine.howard@epa.gov](mailto:caine.howard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion
- V. Deletion Action

**I. Introduction**

EPA Region 5 is publishing this direct final Notice of Deletion of the Spiegelberg Landfill Superfund Site from the NPL. The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant

risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective June 13, 2011 unless EPA receives adverse comments by May 13, 2011. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the "Proposed Rules" section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent To Delete and the comments already received. There will be no additional opportunity to comment.

Section II., of this document explains the criteria for deleting sites from the NPL. Section III., discusses procedures that EPA is using for this action. Section IV., discusses the Spiegelberg Landfill Site and demonstrates how it meets the deletion criteria. Section V., discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

**II. NPL Deletion Criteria**

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

**III. Deletion Procedures**

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State of Michigan prior to developing this direct final Notice of Deletion and the Notice of Intent To Delete co-published today in the "Proposed Rules" section of the **Federal Register**.

(2) EPA has provided the State 30 working days for review of this notice and the parallel Notice of Intent To Delete prior to their publication today, and the State, through the MDEQ, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent To Delete is being published in a major local newspaper, the Livingston Daily News. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent To Delete the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

**IV. Basis for Site Deletion**

*Site Background and History*

The privately owned Spiegelberg property consists of approximately 115 acres and is located on Spicer Road about 40 miles west of Detroit and 5 miles south of Brighton, in Green Oak Township, Livingston County, Michigan. A rental home and barn are located on the northwest corner of the property. Gravel mining at this property

predated 1940, and continues through the present time. The property is surrounded by woods, open fields, and rural residences.

A paint sludge disposal area covered a section of about one-half acre in the northern third of the property at the base of a sand and gravel quarry. Resulting soil and groundwater contamination became the Spiegelberg Landfill Superfund Site (EPA ID: MID980794481). While the entire Spiegelberg property is 115 acres, the Spiegelberg Landfill Superfund site is approximately 2½ acres (including the extent of the groundwater contamination under the ½-acre paint sludge disposal area) and is a subset of the Spiegelberg property. A map of the Spiegelberg Landfill site is located in the deletion docket.

The site was proposed to the NPL on December 30, 1982 (47 FR 58476) and was finalized on the NPL on September 8, 1983 (48 FR 40658). There is potential for redevelopment at this site, but any redevelopment on the site would be subject to ensuring that there is no interfering with the current remedy at the adjacent Rasmussen's Dump Superfund Site.

#### *Remedial Investigation and Feasibility Study (RI/FS)*

The Remedial Investigation (RI) was initiated in May 1984. Sampling and analysis of subsurface soils in the paint sludge area indicated the presence of high concentrations of organic and inorganic compounds from the Hazardous Substances List (HSL) also known as the contaminants of concern (COCs). The HSL chemicals included acetone, 2-butanone, benzene, toluene, xylenes, 1,1,1-trichloroethane, 1,1-dichloroethane, 4-methyl-2-pentanone, ethylbenzene, chlorobenzene, bis(2-ethylhexyl)phthalate, di-N-octyl phthalate, di-N-butyl phthalate, chloroethane, 2-hexanone, cadmium, nickel, and lead. The detection of organic constituents in downgradient monitoring wells and the mobility characteristics of the compounds found in the paint sludge area indicated transport via groundwater was a major potential pathway at the site. The results indicated the need for a remedial action which addresses source control of the paint sludge and contaminated soils contained in the paint sludge disposal area on the site, in order to reduce or eliminate exposure of potential receptors to site contaminants. Additional field work was conducted to address the groundwater portion of this investigation. In September 1988, the Michigan Department of Natural Resources (MDNR) and EPA issued a

Remedial Investigation Report and Risk Assessment for both the Spiegelberg and Rasmussen's Dump Superfund sites due to their proximity to one another.

During the investigation, the areas of concern identified for the Spiegelberg site were: (1) Operable Unit 1 (OU1)—The Paint Sludge Disposal Area and associated contaminated soils, and (2) Operable Unit 2 (OU2)—The Groundwater Contamination Plume resulting from the Paint Sludge Disposal Area. The groundwater contamination plume originated from the contaminated soils and waste materials in the paint sludge disposal area.

The contaminated groundwater plume was defined as an area of contamination approximately 500 feet by 200 feet flowing in a north/northwesterly direction from the paint sludge area. It was estimated that 3.77 million cubic feet of contaminated groundwater existed beneath the site. Upper and lower aquifers are present and are separated by a discontinuous clay layer. Contaminants had migrated from the upper aquifer to the lower aquifer. Groundwater flow rate was calculated as 266 feet per year in the upper aquifer and 131 feet per year in the lower aquifer.

The Feasibility Study evaluated remedial alternatives for addressing site contamination. The primary threat from the paint sludge disposal area to public health was by ingestion of contaminated groundwater. There was a potential for continued migration of contamination downward into residential drinking water wells.

#### *Selected Remedy*

##### 1986 Record of Decision (ROD) Findings

The remedy chosen in the September 30, 1986 ROD was to address the OU1—Paint Sludge Area source material. The recommended and selected remedial action for source materials was excavation, offsite incineration, and landfill disposal. The remedial action objective (RAO) of the action was to remove the source of continued contaminant migration from the site. This alternative included excavation of 15,000 cubic yards of waste material and separating it into liquid sludges, paint residue with garbage intermixed, and solid paint sludges. At the time of the FS, it was estimated there were about 5,000 cubic yards of the combined material to be incinerated and 10,000 cubic yards of solid paint sludge to be landfilled in a RCRA licensed landfill. The material was transported to the incineration site and the landfill site by truck.

##### 1990 ROD Findings

The remedy chosen in the June 29, 1990 ROD to address the OU2 groundwater contamination included groundwater extraction followed by on-site treatment with re-injection of treated groundwater. The RAOs of the groundwater remedy were to eliminate the potential for human exposure to remaining hazardous substances, which may occur due to ingestion of contaminated site groundwater and to address all potential risks to human health and/or impacts to the environment. The area of attainment, as defined in the ROD, extends throughout the plume in the upper and lower aquifers in the area underlying and surrounding the Spiegelberg site.

The major components of the treatment included the following: removal of inorganic contaminants by chemical precipitation followed by pH adjustment; removal of the bulk of the organic contaminants, including ketones, by a biological treatment system; and removal of residual organic contaminants via granular activated carbon. Treated groundwater was discharged via injection wells. Deed restrictions and/or other institutional controls to prevent unacceptable exposure and to ensure the integrity of the remedy were also required.

##### 1991 and 1998 ESD Findings

An explanation significant differences (ESD) issued in 1991 changed the OU2 ROD cleanup standards for toluene and xylene to 800 ppb and 300 ppb respectively. A subsequent ESD was signed on October 22, 1998 which changed the remedy to intermittent pumping and semi-annual sampling events based on monitoring results which showed only trace contamination was present in the groundwater plume. The second ESD changed the sampling schedule from quarterly to semi-annual sampling in the Operational and Monitoring Plan.

#### *Response Actions*

EPA issued a July 8, 1991 Unilateral Order (UAO) to the Potentially Responsible Parties (PRPs) to conduct the Remedial Design/Remedial Action. An amendment to the Unilateral Order was issued by EPA on August 28, 1991. The UAO Amendment modified the "Parties Bound" which required that the UAO be recorded with each parcel of land, modified the definition of "Facility" and modified the Quality Assurance requirements.

The remedial activities designed and eventually implemented by the PRPs included:

- Procurement and implementation of the institutional controls in 1991 for the purpose of preventing interference with the performance of the remedial action. In general, this includes no use that could cause exposure of humans or animals to contaminated groundwater; no use of the real estate that will interfere with the remedial action; and, no residential or commercial use of that part of the real estate that would allow continued presence of humans;

- Implementation of a Remedial Design (RD) Data Collection Program confirming the hydrogeologic site characterization and chemical characterization of groundwater, and conducting field tests and treatability studies. The results of the RD Data Collection Program supplemented the existing site data and were used to design the treatment system and extraction/injection well networks;

- Construction of a groundwater extraction system to capture and extract groundwater for treatment from the affected groundwater zones;

- Construction of a groundwater treatment plant to treat the extracted groundwater prior to reinjection;

- Construction of a groundwater injection system to discharge the treated groundwater. The injection system provided for a “closed loop” system and enhanced movement of the affected groundwater towards the extraction wells;

- Construction of fencing to secure the constructed treatment plant;

- Implementation of all operation, maintenance, and monitoring activities for the constructed remedial action activities including, but not limited to, operation and maintenance of the groundwater treatment plant and monitoring the progress of groundwater remediation; and

- Implementation of a residential well monitoring program.

The PRPs were also required to prepare and submit: Design Plans and Specifications; Operation and Maintenance Plan; Project Schedule; Construction Quality Assurance Plan; Construction Health and Safety Plan, Design Phases; and a Community Relations Support Program.

*Paint Sludge Disposal Area (OU1)*

The remedy for source control commenced on August 10, 1989. The remedy was implemented by the Ford Motor Company pursuant to the December 1988 Consent Decree. The paint sludge was excavated to the surveyed groundwater level and to the visual lateral extent of the waste. Clean soil from the cutback around the periphery of the paint sludge pit was

placed on the soil storage cell and used for backfill at the completion of the source control activities. From August 14, 1989 to September 20, 1989 a total of 817 loads of paint sludge and debris totaling 19,300 tons were transported and disposed of at Wayne Disposal, an off-site RCRA Subtitle C landfill. From September 20, 1989 to October 23 1989 a total of 1,217 loads of subsoil totaling 29,600 tons were transported and disposed of at Wayne Disposal. From October 24, 1989 to November 15, 1989 a total of 425 loads of subsoil totaling 9,600 tons were transported and disposed of at CID Landfill located in Chicago, Illinois. Thirty-three drums of liquid wastes were disposed at Chemical Waste Management located in Chicago, Illinois, an off-site incinerator. Four gas cylinders were disposed at AQUA-TECH Laboratories in Texas.

Project closeout activities included backfilling operations, final grading, disposal of decontamination wash waters, and the removal of all site facilities including all concrete pads, construction trailers, and fencing. According to CRA Progress Report No. 11, excavation, transport, and disposal of soil underlying the paint sludge area was completed on November 15, 1989. Excavation of soil was completed to groundwater at the northern portion of the paint sludge disposal area on November 15, 1989. The area was surveyed prior to backfilling to document the limit of excavation. The limits of excavation were agreed to by the CRA Engineer and the MDNR Project Coordinator. No soil remediation confirmation samples were collected since the source was excavated to groundwater. It was determined that the monitoring of groundwater concentrations would provide data to ensure that all source materials had been addressed. Backfilling commenced on November 16, 1989. The final site inspection was completed by the MDNR Project Coordinator and EPA Remedial Project Manager on February 9, 1990 following demobilization activities.

*Groundwater (OU2)*

Remedial actions began in November 1994 after testing and operating an on-site pump and treat treatment pilot plant. Construction activities included: site clearing and grading; installation of extraction and reinjection wells and associated piping systems; installation of process equipment for treating the contaminated groundwater; access road upgrade; and fencing around the treatment facility. A pre-final inspection of the construction activities was conducted by the MDNR and EPA remedial project managers and the EPA

oversight contractor on June 9, 1995. During the pre-final inspection it was determined that the extraction, reinjection, and treatment systems were constructed as designed and were operational. With the completion of construction at OU2, the site was designated construction complete with the signing of the Preliminary Close-Out Report on June 29, 1995. Upon signature of the ESD in 1998, the pump and treat system operation was suspended because groundwater concentrations were below cleanup levels but would be reactivated if contaminant concentrations exceeded risk-based cleanup levels.

*Cleanup Goals*

All paint sludge and contaminated soils in the paint sludge pit were removed and the excavation extended down to groundwater in accordance with the 1986 ROD. The 1990 ROD for groundwater restoration has been completed. Groundwater treatment has restored the aquifer to cleanup standards. Those cleanup levels are listed in the following table:

Chemical	Cleanup level part per billion (ppb)
Benzene .....	1.2
Vinyl Chloride .....	0.5
2-Butanone .....	350
2-Hexanone .....	50
Toluene .....	800
Xylenes .....	300
Lead .....	5

The confirmation monitoring period consisted of twelve monitoring events from wells in the shallow and deep aquifer both within the former footprint of the source area and downgradient of the source area. The sampling was conducted from September 1998 to December 2004. The monitoring results have demonstrated continued compliance with the 1998 Cleanup Standards and have established that the Site has achieved groundwater cleanup goals established in the 1990 ROD and modified in the 1991 and 1998 ESDs. No COCs have been found above clean up levels since 1998. A Final Close Out was approved by EPA on July 19, 2010.

*Operation and Maintenance*

The pump and treat system operation took place from June 1995 through September 1998. Intermittent operation of the groundwater remediation system occurred from September 1998 through August 2004. EPA approved the PRPs’ Operating Plan on September 14, 1998. This plan called for confirmatory

hydraulic monitoring, additional hydrogeologic investigations, installation of additional monitoring wells, and a contingency plan. The confirmatory sampling report was submitted in January 1999 and the hydraulic investigation results were submitted in April 1999. The results of volatile organic compounds (VOCs) analysis from all groundwater monitoring events post intermittent pumping mode have shown no exceedences of contaminant concentrations in either the upper or lower aquifers above the established cleanup levels.

There are two deed restrictions associated with the entire Spiegelberg property and encompass the former footprint of the landfill. One deed restriction prohibits activities on the Spiegelberg Site that may interfere with the remedy. The Site is cleaned up; therefore, this deed restriction can be removed from the property. There is a second deed restriction on the Spiegelberg property for the adjoining Rasmussen's Dump Superfund Site remedy. This deed restriction prohibits interfering with existing or future monitoring wells on the Spiegelberg property needed to implement and monitor the Rasmussen's Dump Site groundwater remedy. These deed restrictions are not required for the Spiegelberg CERCLA remedy; however the second institutional control related to the Rasmussen's Dump Site will remain in place until the contaminated groundwater from the Rasmussen's Dump Site is remediated.

No operation and maintenance is needed for the Spiegelberg Site since the remedial actions restored both site-related contaminated soils and groundwater to levels that allow for unlimited use and unrestricted exposure. Any monitoring done at the Spiegelberg property is done in conjunction with the Rasmussen's Dump Superfund Site remedy.

#### *Five-Year Review*

Five-Year Review (FYR) reports were written in 2000 and 2005. The 2000 FYR concluded that the implemented remedy is protective of human health and the environment. The on-site groundwater treatment system was operating as described in the Spiegelberg Landfill Site ROD. This FYR recommended continuing the monitoring requirements from the Statement of Work (SOW) which included four consecutive semi-annual sampling events. The confirmation monitoring period consisted of twelve monitoring events from September 1998 to December 2004.

The 2005 FYR also found the remedy to be protective of human health and the environment. It concluded that the confirmation monitoring period (post intermittent pumping monitoring) included twelve monitoring events since 1998, to demonstrate continued compliance with the 1998 groundwater Cleanup Standards. The 2005 FYR also concluded, "This is the final Five-Year Review for the Spiegelberg Site. Groundwater treatment has restored the aquifer to clean-up standards. Delisting, more formally known as Deletion from the NPL, should be evaluated and pursued as appropriate."

#### *Community Involvement*

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion of this site from the NPL are available to the public in the information repositories and at <http://www.regulations.gov>.

#### *Determination That the Site Meets the Criteria for Deletion in the NCP*

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Michigan, has determined that the responsible parties have implemented all required response actions and that no further response action by responsible parties is appropriate.

#### **V. Deletion Action**

The EPA, with concurrence from State of Michigan through the MDEQ, has determined that all appropriate response actions under CERCLA have been completed. EPA received concurrence from the State of Michigan on December 17, 2010. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective June 13, 2011 unless EPA receives adverse comments by May 13, 2011. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

#### **List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 5, 2011.

**Susan Hedman,**

*Regional Administrator, Region 5.*

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

#### **PART 300—[AMENDED]**

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

#### **Appendix B to Part 300 [Amended]**

■ 2. Table 1 of Appendix B to Part 300 is amended by removing "Spiegelberg Landfill, Green Oak Township, MI."

[FR Doc. 2011–8879 Filed 4–12–11; 8:45 am]

**BILLING CODE 6560–50–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 1042**

#### **Control of Emissions From New and In-Use Marine Compression-Ignition Engines and Vessels**

#### *CFR Correction*

In Title 40 of the Code of Federal Regulations, Part 1000 to End, revised as of July 1, 2010, on page 240, in § 1042.901, the definition of "New vessel" is reinstated to read as follows:

#### **§ 1042.901 Definitions.**

\* \* \* \* \*

*New vessel* means any of the following:

(1) A vessel for which the ultimate purchaser has never received the equitable or legal title. The vessel is no longer new when the ultimate purchaser receives this title or it is placed into service, whichever comes first.

(2) For vessels with no Category 3 engines, a vessel that has been modified such that the value of the modifications exceeds 50 percent of the value of the modified vessel, excluding temporary modifications (as defined in this section). The value of the modification is the difference in the assessed value of the vessel before the modification and the assessed value of the vessel after the